


May 11, 2022

VIA ECF

APPLICATION GRANTED
SO ORDERED 
VERNON S. BRODERICK
U.S.D.J. 05/12/22

The Honorable Vernon S. Broderick, U.S.D.J.
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 415
New York, New York 10007

RE: *U.S. Bank National Association, as Trustee for Merrill Lynch First Franklin Mortgage Loan Trust, Series 2007-3 v. First Franklin Financial Corporation, Merrill Lynch Mortgage Lending, Inc., and Bank of America Corporation* (Case No. 1:19-cv-4890) (“FFMER 2007-3”)

U.S. Bank National Association, as Trustee for Merrill Lynch First Franklin Mortgage Loan Trust, Series 2007-4 v. First Franklin Financial Corporation, Merrill Lynch Mortgage Lending, Inc., and Bank of America Corporation (Case No. 1:19-cv-5948) (“FFMER 2007-4”)

Dear Judge Broderick:

On behalf of the Plaintiff-Trustee and Defendants (together, the “Parties”) in the above-referenced FFMER 2007-3 and FFMER 2007-4 actions (the “Actions”), we write pursuant to Your Honor’s January 24, 2022 Orders staying the Actions pending the Trustee’s evaluation of new written offers to settle the Actions (the “New Settlement Offers”) (19-cv-4890, Dkt. No. 79; 19-cv-5948, Dkt. No. 80). Your Honor’s Orders require that “the Parties report to the Court regarding the status of the Trustee’s evaluation of the New Settlement Offers by May 12, 2022.” (*Id.*)

As we previously advised the Court, the Plaintiff-Trustee solicited directions from certificateholders in the FFMER 2007-3 and 2007-4 Trusts regarding the New Settlement Offers, and selected an independent expert to evaluate the New Settlement Offers and to advise the Trustee in anticipation of the Trustee seeking instructions in judicial trust instruction proceedings (“TIPs”) in Minnesota state court. (*Id.*) The Trustee’s expert found the New Settlement Offers reasonable, and the Parties conditionally executed a settlement agreement in FFMER 2007-3 on February 4, 2022, and a settlement agreement in FFMER 2007-4 on March 10, 2022 (together, the “Settlement Agreements”), subject to, among other things, final court approval in TIPs. On February 4, 2022 for FFMER 2007-3 and March 11, 2022 for FFMER 2007-4, the Trustee filed TIP petitions in the District Court of Ramsey County, Minnesota, seeking, among other things, approval of the Settlement Agreements. (Case Nos. 62-TR-CV-22-9 and 62-TR-CV-22-13, (together the “Petitions”).) Initial hearings were held in both TIPs (on March 21, 2022, for FFMER 2007-3 and on May 2, 2022, for FFMER 2007-4) at which certificateholders appeared to express both support for and opposition to the Settlement Agreements and the relief sought by the Trustee. Discovery is underway in the FFMER 2007-3 TIP and will be shortly in the FFMER 2007-4 TIP. The TIP Court has not yet entered pretrial schedules for either TIP or set either for trial.

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In the interest of efficiency and to reduce the burden on the Parties and the Court, the Parties respectfully request that the stays remain in place and that the Parties report to the Court regarding the status of the TIPs by November 10, 2022.

We appreciate the Court's consideration of this request, and the Parties are available to address any questions the Court may have.

Respectfully submitted,

McKOOL SMITH, P.C.

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